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#19
Pet. Inv. No.
8-24-03
JW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: **Gerald Klebe**

Appellant: **Nick Bromer**

5 GAU: **3618** Title: **DORSIFLEXION SKATE BRAKE**

Serial No.: **09/995,097** Filed: **Nov. 27, 2001**

Tech Center: **3600** This paper: **July 23, 2003**

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PETITION TO WITHDRAW FINALITY OF REJECTION

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

20 The Appellant petitions for withdrawal of the finality of rejection mailed on July 2, 2003.

The Decision on Petition mailed on May 27 did not give the Appellant any decision on the question he asked for a decision on, but instead acted on an imaginary petition that the Appellant never submitted, namely a petition to withdrawn finality. That Decision stated that the finality of the rejection mailed on September 16, 2003 was to be withdrawn, and that the case would be forwarded to the Supervisory Legal Instruments Examiner to withdraw finality and then to the Examiner.

However, the Appellant was never notified when the finality was withdrawn, and therefore had no opportunity to submit any additional amendment in response to the September 16 rejection. Instead, the Appellant has now received the second consecutive final rejection and still has had no opportunity to respond to the September 25, 2002 rejection with substantive amendments. The Amendment After Final Rejection submitted on September 25, 2002 was of course not an amendment made without constraint, because it was after final rejection and no new issues could be raised.

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The Appellant's cause has been delayed for the better part of a year over the matter of finality, and the PTO generated this delay entirely on its own initiative. Since the PTO has made an issue of the finality, it should carry through in a fair manner. The Appellant should now have a chance to amend his claims, and withdrawal of the finality of the rejection of July 2, 2003 is
5 respectfully requested.

Respectfully submitted,



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